

THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.27562 OF 2005

-

Dated: 26-12-2005

-

Between

Pothula Rambabu, S/o. Swamy Naidu,

Occ: Cultivation, R/o. Gunthindeevi Village,

I. Polavaram Mandal, East Godavari District.

...PETITIONER

AND

The Commissioner, Endowments Department,

Tilak Road, Hyderabad and others.

...RESPONDENTS

ORDER:

-

-

Petitioner seek a Writ of Mandamus to declare the impugned auction notice dated 12.12.2005 issued by the fourth respondent proposing to conduct the auction of the lands admeasuring

Ac.6.78 cents situated in S.No.363/1 and 363/2 (wrongly mentioned as 368/2) of Guttinadevi Village, I. Polavaram Mandal, East Godavari District on 27.12.2005 during the middle of the second crop as illegal and arbitrary.

Learned counsel for the petitioner submits that the petitioner has originally taken the lease of above-mentioned lands belonging to the fourth respondent temple in the year 1984 and he has been in possession of the said lands for the last more than two decades and paying

maktha regularly. Further, the petitioner along with his family members filed an application before the third respondent to treat him small farmer under the provisions of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act') and further stated that he is a landless poor and do not have any other land as defined under Section 82(2) of the Act, but the said application has been dismissed by order dated 10.01.2005 in M.A.No.361 of 2004. As against the said order the petitioner has filed an appeal before the second respondent and the second respondent dismissed the same in Appeal No.81 of 2005 by order dated 30.06.2005.

The learned counsel further submits that the petitioner has been cultivating the said land from 1984 onwards and has raised the second crop and plantation is completed, which will come up for harvest within a couple of months. Therefore, giving auction notification to lease out the said lands from second crop 2005-2006 till the second crop from 2008 – 2009 for a period of 3 ½ years is illegal and arbitrary.

The learned counsel for the petitioners further submits that the petitioner does not have any objection if the said auction is conducted from the first crop of 2006 onwards. He further submits that having permitted the petitioner to raise the second crop in the month of November/December, auctioning the cultivating rights of the second crop of 2005-2006 by the fourth respondent is arbitrary and unreasonable as the petitioner invested huge amounts for his agricultural operations.

Insofar as the contention of the petitioner that he is a small farmer and entitled for the benefits of small farmer is concerned,

I am unable to accept the said contention and I do not find any infirmity legal or otherwise in the impugned orders and the auction notice dated 12.12.2005 issued by the fourth respondent.

Insofar as the contention that the petitioner has raised a second crop in the lands in question, the petitioner is permitted to file a representation before the fourth respondent to protect his rights in respect of the second crop for the year 2005-2006 and on such a representation being filed, the fourth respondent may consider and dispose the same in accordance with law for protecting the cultivating rights of the petitioner to harvest the second crop on certain terms and conditions, if really, the petitioner has raised a second

crop.

The writ petition is accordingly disposed of.

V. ESWARAIAH, J

December 26, 2005

DSK